

## Final Bulletin

August 2005

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### Legislature's "Out for the Summer ..."

Both houses of the Legislature adopted the biennial budget on June 29 and were able to return home for the summer. It was another session punctuated by disagreement over education funding, budget priorities and the long-term fiscal health of the State. Those issues are never easy to resolve and are often marked by heated debate over passionately held beliefs.

On the municipal front, staff followed fifteen bills containing NHMA policy issues during 2005. Five passed or were resolved in our favor. Nine were either retained by the House or re-referred by the Senate for additional review during the fall, and one passed contrary to municipal interests.

*"Although it seems like a long six months of session and some are disappointed at the outcome of various bills, there have been several victories for cities and towns."*

In this final legislative summary, we are providing a synopsis of 75 chapter laws affecting municipalities which passed in 2005. A total of 295 chapters were adopted this session from 961 bills filed. You are able to access these chapters directly at <http://www.gencourt.state.nh.us/ie/billstatus/chaplist2005.asp> If you have any trouble finding information, however, please contact the Government Affairs staff for assistance.

Among those passed were bills affecting revolving funds, liability protection for municipal public works and highway employees, groundwater withdrawals, school building aid, a study of the New Hampshire Retirement System special accounts, and, of course, the budget and trailer bill. Also included in this final *Legislative Bulletin* is a list of those bills that have been retained or re-referred for further study.

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Although it seems like a long six months of session and some are disappointed at the outcome of various bills, there have been several victories for cities and towns. The budget contains full funding to municipalities of revenue sharing and the local share of the state meals and rooms tax, as well as vital grant programs that assist local government. Municipalities will be able to create revolving funds for recycling, ambulance services and public safety outside details as a result of **HB 311**, an NHMA policy bill. Municipal public works and highway employees will have some liability protection when they are involved in motor vehicle accidents while performing official duties in municipal vehicles as a result of **SB 138**, another NHMA policy bill. And on the last day of the session, the House killed two bills: **SB 121** relative to ATV trails, which did not offer adequate protection to local water supply wells, and **HB 381**, which would have affected the ability of local government to have a voice in constitutional amendment debates.

If it were not for you who take part in the legislative process in a myriad of ways, we would not have successes on the legislative front or the ability to offer some of the creative solutions to state and local problems that have been addressed over the years. *All of you are the ones who make a difference and help us, as staff, to do the job you expect of us. You are a delight to work with and we are grateful for all that you do on behalf of those you represent.*

**Please remember to thank your legislators who have assisted by sponsoring municipal legislation, by voting to help local interests, and by listening to the concerns you have expressed about legislative issues. Without them, no municipal legislative policy would ever be adopted.**

The end of the legislative session also provides me with an opportunity to offer a personal perspective and to thank those who make things work both on the front lines and behind the scenes. The legislative process is a dynamic and exciting venue in which to work. It can seem complicated to the uninitiated, but is amazingly efficient for the depth and breadth of its undertaking. There are many who see to it that government is responsive to its people and prepare information for review by the public. In addition to the legislators with whom we work daily during the legislative session, there are officials and staff in the House Sergeant-at-Arms office, the House and Senate Clerks' offices, the Office of the Legislative Budget Assistant, the Office of Legislative Services, the Secretary of State's office, the direct staff of legislators and committees, the Governor's Office, staff of the various executive branch agencies, and those who keep the State House safe and operating as it should. To all of you, I extend thanks on behalf of all of us at NHMA and the larger Local Government Center.

I would also like to extend my personal thanks to the members of LGC/NHMA's staff for their professionalism, their willingness to be flexible and to take on tasks that are necessary but less than glamorous, to adjust priorities and respond to emergencies, and for their commitment to the mission of service to local government. You may not see beneath the surface to the detail required for the smooth operation of the Government Affairs program, but without the dedication of these individuals, we could not accomplish what is needed and you would not see the final products or positive results that you do.

As **Government Affairs Counsel, Judy Silva**, continues to represent municipal interests at the State House and beyond. She drafts legislation, testifies before the legislature, contributes to and edits the weekly Legislative Bulletin and provides updates to members on legislative activity. She is a passionate advocate for local government, is well-respected at the State House, and manages to keep perspective and a sense of humor despite some difficult political challenges. **Cordell Johnston, Government Affairs Attorney**, has provided his usual wit and wisdom in response to the plethora of legislation in a budget year and the unending details that must be addressed. He has proven a quick study on a variety of municipal subjects and proffered solutions to some complex, often controversial problems. Both Judy and Cordell share with me the advocacy and strategy decisions as well as the responsibility of the Municipal Advocacy Committee and the Legislative Policy Process. They are legislative partners of the highest caliber. As **Researcher, Susan Olsen** has provided a wealth of data for us to present to legislators and members and, with her background in utility consulting, has been and continues to be critical to our efforts on broadband and telecommunications issues. She has offered innovative suggestions for our programs and is determined to move us further into an appropriate realm of technology.

**Susan Slack**, our **Legal Services Counsel**, manages the day-to-day issues on the legal side of the department, and makes sure that all legal issues are addressed as we concentrate on the frenzy of activity at the State House. I rely greatly on her expertise and judgment, and if not for her efforts and the efforts of our **Staff Attorneys, Nolan Koon** and **Paul Sanderson**, we would be unable to provide the traditional legal services you require year-round. The legal services staff guarantee that the dual roles of the department are adequately covered, particularly during the legislative session. They help local officials to carry out the many duties associated with town meetings, with budget preparations, and with planning and zoning functions. Often behind the scenes, they staff the phones, faxes, and e-mails to assure that questions are answered promptly and accurately. These colleagues also give perspective to our legislative work and provide us with an opportunity to engage in lively and stimulating exchanges of ideas and legal opinions. We appreciate their patience and always look forward to a break in legislative action so that we can get “reacquainted.”

**Barbara Reid** has joined our staff as **Government Finance Advisor** and has provided advice and guidance not only to members but to staff, as we review legislation and interpret statutes affecting local finance issues. With her long-term experience at DRA, she offers a tremendous resource and practical knowledge about the operation of state government as well as the requirements of government finance.

As always, our support staff provides invaluable service to the Government Affairs program. **Elaine Dawson**, our long-term Legal Assistant, began the session with us but has moved on to offer her skills and talents to the Communications and Member Services Department. For more than 10 years she has kept track of our chart of legislation, overseeing the production of our weekly *Legislative Bulletin* and the myriad details of following the legislative session. She provided us with the support to keep the department operating well and in a manner responsive to members’ needs, and she assisted us in many ways to upgrade the information and services we provided to members. We wish her well and we’re just glad she hasn’t left LGC. Our **Secretary, Pam Valley**, has also been with the department for several years and assists us in so many

ways. Pam keeps all our mailing lists current, has responsibility for printing our weekly *Legislative Bulletin*, ably prepares us and our facilities for meetings, willingly delivers documents, makes common sense suggestions about our operation and keeps a close eye on the machines and various technologies needed for production of the *Legislative Bulletin* and other informational materials that we send to members, to be sure that all are working properly. She gently reminds us to do what we may have forgotten to do, and cleverly locates us *wherever* we are (even when our GoodLinks are not working).

Recently joining our staff is **Stacey Artis**, our new **Legal Assistant**, who already has offered suggestions to make us more efficient and productive. We are looking forward to a long-term working relationship with Stacey and hope you will all have a chance to meet her in the coming months.

Not to be forgotten are those staff members who are not part of the Legal Services and Government Affairs Department, but who willingly assist with the production of the *Legislative Bulletin*, and the dissemination of important information during the session. **Janice Seaver** has provided assistance with the *Bulletin* for many years and cheerfully helps our staff to meet our Friday deadlines. There may be others who assisted or supported the efforts of the Government Affairs staff in some way, who inadvertently remain unnamed. Many thanks to all of you who have helped in any way!

The Government Affairs staff wishes you a healthy and happy summer! Please contact us if you have questions, concerns or suggestions.



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## **2005 FINAL LEGISLATIVE BULLETIN**

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## I. CLERKS; ELECTIONS; OFFICIAL BALLOT

**Pre-Election Period for Charter Amendments Extended.** Chapter 38 (HB 144) amends RSA 49-B:5, IV(c) to provide that after the required hearing on a proposed municipal charter amendment (as opposed to a charter *revision* under RSA 49-B:3 and 4), the municipal officers shall order the proposed amendment to be placed on the ballot at the next regular municipal election if the election is to be held within 365 days. Otherwise, a special election must be held not less than 60 days after the date of the order. Under prior law, a special election had to be held not less than 60 or more than 90 days after the order if the next regular election was more than 180 days subsequent. The chapter also removes the outer time limit of 90 days. **E.D. 7/16/05.**

**Revised List of Statutes to be Posted at Polling Places.** Chapter 111 (HB 362) revises the list of statutes that are required to be posted at all polling places during elections. Deleted from the list are certain statutes that have nothing to do with the conduct of the election itself; added are statutes referring to certain prohibited acts, such as voter fraud, forgery, and bribing or interfering with a voter. It remains the duty of the Secretary of State's office to distribute copies of the statutes to be posted. **E.D. 8/14/05.**

**Federal Liens No Longer Filed With Municipal Clerk.** Chapter 219 (HB 651) changes the place of filing for certain notices of federal liens on personal property. Beginning in 2006, all such notices will be filed only in the Secretary of State's office. Previously, notices of liens against the property of individuals and certain other entities were filed in the city or town clerk's office. The new law also provides that certificates and notices affecting federal liens previously filed in a city or town clerk's office will be filed in the Secretary of State's office. However, previously filed notices do not have to be re-filed with the Secretary of State.

City and town clerks' offices must maintain records of all federal tax liens previously filed with them until June 30, 2017—or until one year after a release or discharge is filed with respect to the lien, if earlier. (It is unclear how the clerk's office will know that a release or discharge has been filed, since such notices will now be filed with the Secretary of State.) Until that time, they must respond to requests for information about notices of liens filed with them in the manner prescribed in RSA 382-A:9-523, and may charge fees for responding to such requests as authorized under RSA 382-A:9-525(d). As of July 1, 2017, all remaining records relating to federal liens filed with the clerks' offices may be destroyed. **E.D. 1/1/06.**

**Brochures From Town and City Clerks.** Chapter 261 (HB 83) removes the requirement in current law that town and city clerks provide brochures on family planning services, fetal alcohol syndrome, and human immunodeficiency virus to marriage license applicants and also removes the requirement that marriage license applicants sign an affidavit confirming receipt of the brochures. These three brochures must now simply be available to the public in the office of the town clerk. Marriage license forms containing the affidavit of receipt may still be used, provided applicants are not required to complete that section. **E.D. 9/20/05.**

**Vital Records Administration.** Chapter 268 (HB 383) repeals and reenacts RSA ch. 5-C, relative to vital records administration; removes the rulemaking authority of the Division of Vital Records in the Secretary of State's office; and codifies existing rules relative to vital records administration with certain technical changes, including provisions that fetal death reports be retained permanently and that government agencies may make arrangements to receive copies of vital records at a reduced cost. **E.D. 1/1/06.**

## II. INTERGOVERNMENTAL RELATIONS; RETIREMENT; STATE BUDGET

**NH Retirement System Special Account Study. Chapter 8 (HB 181)** creates a legislative committee to study and develop the following: the most appropriate way (including consideration of increasing employee contributions) to increase balances in the special accounts in order to provide retirees with future COLAs, and strategies for increasing special account balances in order to extend health insurance subsidies for future retirees. It is also charged with seeking input from NHRS staff and board members as well as representatives of the groups covered by the NHRS, and it may study any matter the committee members deem relevant. **E.D. 5/3/05.**

**Return of Retirement Contributions. Chapter 52 (HB 210)** reduces from six years to two years the amount of time after which an absence from service triggers a return of a member's contributions to the NHRS. **E.D. 6/30/06.**

**State Budget. Chapter 176 (HB 1)** appropriates \$8.6 billion for the fiscal years 2006 and 2007 to fund the biennial state budget. This chapter is not a detailed line-item budget document, but reports what changes have been made to the previous year's budget levels. The budget is lower in FY '06 than in FY '05 and includes a modest increase in FY '07. As reported in prior *Legislative Bulletins*, the budget fully funds both revenue sharing at \$25,215,057 in each year and the meals and rooms tax distribution at \$47,686,670 in FY '06 and \$52,686,670 in FY '07. **E.D. 7/1/05.**

**State Budget Trailer. Chapter 177 (HB 2)** makes the appropriate statutory changes to correspond with the budget items adopted in **chapter 176**. This chapter contains 191 sections, including 8 different effective dates. It provides that all tobacco settlement monies will be deposited in the education trust fund and increases the tobacco tax by 28 cents. It increases the local medical assistance contribution from counties and extends to July 1, 2007, the current funding formula relative to county nursing homes and pro-share payments. It increases motor vehicle fines and establishes a 2-year pilot program on investing state highway mitigation funds for the purposes of LCHIP. It funds the state employee contract and appropriates funds for kindergarten programs in Goffstown, Litchfield, Hampstead, Merrimack, Raymond, South Hampton, Unity and the towns in the Sanborn regional school district. There are also many provisions related to health and human service programs. **E.D. varied, see chapter.**

**Restructuring DRA. Chapter 218 (HB 647)** makes several technical and substantive changes to the structure of DRA, including repealing the Division of Community Services. **E.D. 9/3/05.**

**State Capital Budget. Chapter 259 (HB 25)** contains all the capital projects approved by the legislature for FY '06 and FY '07. Please consult the text of the chapter for specific details about individual projects. **E.D. extension of lapse dates 6/30/05; remainder 7/1/05.**

**State Park System Study. Chapter 276 (SB 5)** establishes a 13-member commission to study the mission of the state park system; the continued efficacy of self-funding the park system; the leasing of state parks and property for private commercial gain; the development of a long-term capital improvements plan for the state park system; and any other matters relating to the state park system and the operation of DRED's Division of Parks and Recreation as the commission may deem necessary. One of the commission's eight public members must represent municipal interests, and the commission is to solicit advice and expertise from members of the public representing municipal interests. An interim report is due by November 30, 2005, with a final report to be filed by November 30, 2006. **E.D. 7/22/05.**

### **III. MUNICIPAL ADMINISTRATION AND FINANCE MANAGEMENT; LEGAL MATTERS; ECONOMIC DEVELOPMENT; MANDATES**

**Right-to-Know Oversight Commission.** Chapter 3 (HB 41) establishes an oversight commission to study issues relating to the use of electronic communications and records under the Right-to-Know Law. This is an outgrowth of the study commission established in 2003, which filed its report in the fall of 2004 and made recommendations for changes to the Right-to-Know Law. Those proposed changes are being studied by the House Judiciary Committee. The oversight commission, which includes three local officials appointed by NHMA, will exist until 2010 and will file a report annually, including recommendations for legislation. **E.D. 5/3/05.**

**Public Works Employees Motor Vehicle Liability.** Chapter 46 (SB 138) adds municipal public works and highway department employees operating vehicles owned by the municipality to the listing of those exempt under RSA 264:33 from personal liability for on-the-job accidents. **E.D. 1/1/06. NHMA POLICY.**

**NHMA Representation on Film and Television Commission.** Chapter 66 (SB 55) expands the New Hampshire Film and Television Commission, which was created in 2004 to promote the film and television industry in New Hampshire and the use of New Hampshire location sites in film and television. The expanded commission is to include, among others, a representative of the NHMA and a representative of the Police Chiefs' Association. **E.D. 7/22/05.**

**Revolving Funds Authorized.** Chapter 79 (HB 311) authorizes towns to establish revolving funds for (a) facilitating or encouraging recycling, (b) providing ambulance services, or (c) providing public safety services outside of ordinary detail. Any such fund must be established by a vote of the legislative body, and amounts in the fund may be paid out upon order of the governing body, or other board or body designated by the legislative body at the time the fund is established, without further action by the legislative body. The legislative body may place limitations on expenditures from the fund, including limitations on the amounts and types of expenditures. No amount may be expended from such a fund for any item or service for which an appropriation has been specifically rejected by the legislative body during the same year. **E.D. 8/6/05. NHMA POLICY.**

**Sale of Town Land.** Chapter 80 (HB 408) amends RSA 41:14-a, relative to the sale or acquisition of town-owned land and/or buildings. The selectmen must hold two public hearings on a proposed acquisition or sale, and the new law reduces the time between the second public hearing and the selectmen's vote from 10 to seven days. **E.D. 8/6/05.**

**Crime Victim Employment Leave Act.** Chapter 109 (HB 329) creates the Crime Victim Employment Leave Act, which requires an employer to permit an employee who is a victim of a crime to leave work to attend court or other proceedings associated with the prosecution of the crime. The law applies to employers with 25 or more employees. The employer is not required to pay the employee during the absence, and may require the employee to use vacation, personal, or sick time. The employee is guaranteed no loss of seniority during the absence. An employer may limit the required leave if the employee's leave would create an "undue hardship" to the employer's business. **E.D. 1/1/06.**

**Committee to Study Procurement Methods.** Chapter 132 (HB 157) creates a legislative committee to "study contracting practices for public works projects by state agencies, municipalities, counties, school districts, and all other political subdivisions." The goal of the study is "to recommend the public



procurement policies that promote the best economic and work quality value from public construction and infrastructure investment.” This is the progeny of a bill sent to interim study in the 2004 session that would have prevented the state and municipalities from restricting bidders and contractors based on union affiliation, provision of benefits, or certain other practices. The committee must report by November 1, 2006. **E.D. 6/16/05.**

**Expanded Liability Protection for Ski Areas.** Chapter 145 (HB 619) makes a number of changes to RSA ch. 225-A, the statute that limits the liability of ski areas—including those owned by municipalities—for injuries suffered by skiers. Most notably, it expands the scope of RSA ch. 225-A to cover snowboarding, snow tubing, and snowshoeing. Participants in these sports are deemed to accept the risks inherent in them and may not maintain an action against the owner or operator of a ski area for injuries resulting from those inherent risks. **E.D. 7/1/05. CONTAINS NHMA POLICY.**

**Municipal Records Retention Rules Codified.** Chapter 187 (HB 437) codifies in RSA ch. 33-A (with a number of changes) the durational requirements for retaining specific kinds of municipal records. Previously, the requirements were contained in rules promulgated by the Municipal Records Board. The new law requires each municipality’s records committee (comprising the “municipal officers” and the clerk, treasurer, assessor, and tax collector) to designate the office responsible for the retention of each type of record created by the municipality. It also provides that records existing in electronic format that are required to be maintained for more than 10 years must be transferred to paper or microfilm; electronic records required to be maintained for less than 10 years may be retained solely in electronic form if approved by the records committee, so long as the municipality ensures the accessibility of the records for the mandated period. **E.D. 8/29/05.**

**Hearing Not Required for Small Amounts of Unanticipated Funds.** Chapter 188 (HB 549) modifies the requirements under RSA 31:95-b for accepting and expending unanticipated funds which become available during the fiscal year when the town meeting has given such authority to the selectmen. Under the new law, a public hearing on the proposed action is required only if the amount of unanticipated funds is \$5,000 or more. For amounts less than \$5,000, no hearing is required, but the action must be taken at a public meeting of the selectmen, notice of the proposed action must be posted in the agenda before the meeting, and notice of the decision must be included in the meeting minutes. The selectmen may choose to establish a threshold less than \$5,000 to trigger the public hearing requirement. The chapter makes similar changes with respect to acceptance and expenditure of unanticipated funds by school boards and public library trustees. **E.D. 8/29/05.**

#### **IV. PLANNING; ZONING; ENVIRONMENTAL REGULATIONS AND PROTECTION; SOLID/HAZARDOUS WASTE**

**NH Estuaries Project.** Chapter 20 (HB 148) transfers the functions, powers, duties, and responsibilities relative to the New Hampshire Estuaries Project from DES to UNH. **E.D. 5/10/05.**

**Water Conveyance Systems Exempt from Dredge & Fill Permit Requirement.** Chapter 29 (HB 457) amends RSA 482-A:3, IV(b) to allow the cleaning of “man-made water conveyance systems that are used for the commercial or industrial purpose of collecting, conveying, storing, and recycling water” without a dredge and fill permit from DES. **E.D. 5/10/05.**

**Terrain Alteration Permits for Timber Harvesting.** Chapter 32 (HB 560) adds a new section to the terrain alteration provisions of RSA 485-A:17, III. Timber harvesting operations continue to be exempt from the fee provisions of the section, and will be issued a terrain alteration permit provided the DRA intent to cut form is signed and the operation is in compliance with the Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire, published by DRED. The chapter also gives DRED the authority to prosecute certain violations of the law. **E.D. 7/9/05.**

**Mandatory Preliminary Review of Site Plans.** Chapter 33 (HB 570) allows a municipality to authorize its planning board to require preliminary review of site plans. Previously, preliminary review was authorized under RSA 676:4, II, but there was no indication that it could be made mandatory. The authorization for the planning board to require preliminary review must be given “by ordinance or resolution” adopted by the municipality—*i.e.*, by the legislative body. This was a logical next step after the legislature last year gave municipalities authority to require preliminary review for subdivision applications. **E.D. 7/9/05.**

**More Time to Furnish Minutes of DRI Meetings.** Chapter 39 (HB 265) amends the requirement regarding the mailing of minutes under RSA 36:57, II. That statute previously provided that when a municipal land use board made a decision regarding a development of regional impact, it had to send copies of the meeting minutes to the regional planning commission and affected municipalities within 72 hours. Chapter 39 changes this requirement to 144 hours, to be consistent with the period for posting minutes under the Right-to-Know Law and under RSA 676:3. **E.D. 7/16/05. NHMA POLICY.**

**Planning Board’s Power to Limit Building Permits Clarified.** Chapter 51 (HB 141) adds a new section to RSA 674:35 stating that a planning board may not limit the number of building permits that can be issued by the municipality except in accordance with a growth management ordinance or a duly adopted innovative land use control ordinance addressing timing incentives and phased development. This does not change existing law, but supporters thought it was necessary to address a perception that some planning boards were limiting building permits without appropriate authority. **E.D. 7/22/05.**

**Changes to Village Plan Alternative.** Chapter 61 (HB 480) amends RSA 674:21, VI, regarding the innovative land use control known as the “village plan alternative.” The chapter removes the provision for expedited approval of a village plan subdivision and authorizes the planning board to increase the setbacks to new construction within such a subdivision “by up to 2 times the distance required by current zoning or subdivision regulations.” **E.D. 7/22/05.**

**Emission Requirements for Municipal Waste Combustors.** Chapter 72 (HB 414) sets maximum emission levels for municipal waste combustors for particulate matter, opacity, cadmium, lead, mercury, sulfur dioxide, hydrogen chloride, and dioxins/furans. The requirements apply to any device that burns municipal solid waste and that has a design capacity of at least 35 tons per day but not more than 250 tons per day. **E.D. 1/1/06.**

**Municipal Responsibility for Septage Disposal.** Chapter 98 (HB 59) re-writes RSA 485-A:5-b, relative to a municipality’s responsibility to its residents to provide or assure access to a DES approved septage facility. Each municipality must now have a written agreement with a recipient facility indicating that the recipient facility agrees to accept septage generated in that municipality. Septage haulers are still free to take septage to any facility they want. The “sending” municipality is urged to consider providing sufficient annual capacity through its agreement to equal 5000 gallons of septage for every household on a septic system over a 5 year period. Facilities retain their ability to refuse septage if necessary for the proper operation of the facility. **E.D. 1/1/06 to have a written agreement; remainder 8/14/05.**

**NH Estuaries Project Commission. Chapter 104 (HB 199)** adds two new members to the Commission to Study Implementing a Recommendation of the New Hampshire Estuaries Project Management Plan and extends the reporting date until November 1, 2006. **E.D. 6/15/05.**

**Calculation of Days for Requesting ZBA Rehearing Changed. Chapter 105 (HB 236)** corrects an anomaly in RSA 677:2, regarding applications for re-hearings of ZBA decisions. Under the old law, such an application had to be filed within 30 days after the decision, but “[t]he 30-day period shall be counted in calendar days beginning with the date upon which the board voted.” In effect, this resulted in a 29-day period for filing the application. The new law provides that the 30-day period will be counted in calendar days beginning with the date *following* the date of the board vote, which is consistent with the general “reckoning of days” statute, RSA 21:35 (and with common sense). The chapter also makes a conforming change to RSA 677:15, I, regarding the appeal of planning board decisions. The latter statute contains a 30-day appeal period, but previously did not specify how the days were to be counted. **E.D. 8/14/05.**

**Septage Treatment Facilities; Land Application. Chapter 141 (HB 432)** directs the additional \$10 fee on septic permits, originally imposed to fund DES’s septage coordinator position, to DES (through the general fund) for use in the septage handling and treatment facilities grant program, in the event the septage coordinator position is funded from other sources. The chapter also extends the grandfathering for certain sludge and septage land application projects until July 1, 2007. **E.D. 6/30/05 for grandfathering provisions; 8/16/05 for septic permit fee section.**

**Committee to Study Disposal of Construction Debris. Chapter 169 (SB 215)** creates a legislative committee to study alternatives for the disposal of construction and demolition debris, “with particular emphasis on the use of wood derived from the construction and demolition waste stream as a fuel for generating electricity and the importation of such wood products in the state.” (See also reference to chapter 205 below.) **E.D. 6/21/05.**

**Best Available Technology for Air Pollution Control. Chapter 173 (HB 315)** requires the use of “best available control technology” (BACT) in the construction and operation of devices that contribute to air pollution. DES is required to adopt procedures for establishing BACT standards and certification. DES is also required to adopt rules regarding applicability thresholds for emission of particulate matter, mercury, and dioxin, so that any device with emissions below those levels is exempt from the BACT requirement. Municipal waste combustors with a design capacity of at least 100 tons per day also are exempt. Subject to these and other exemptions and definitional limitations, no new permits for air pollution devices may be issued until DES adopts all rules required by the law. **E.D. 6/29/05.**

**Large Groundwater Withdrawals. Chapter 200 (HB 69)** amends the large groundwater withdrawal statute to require that DES provide to water suppliers and governing bodies of each municipality within the zone of contribution, copies not only of the application, but of subsequent materials submitted to the department and correspondence sent by the department to the applicant. In addition, DES must provide the applicant with copies of correspondence received from municipal governing bodies. The chapter also provides for an additional public hearing to be held after DES receives its final report and prior to making a final decision on the withdrawal. Language was also added to the statute to clarify what items must be reviewed by DES before approving an application for groundwater withdrawal. **E.D. 8/30/05. NHMA POLICY.**

**Committee and Moratorium for Burning Construction Debris.** Chapter 205 (HB 517) creates a legislative committee (separate from the one created by chapter 169 (see above)) to study “certain issues relative to construction and demolition [C&D] waste.” The committee is to study other northeastern states’ policies, the health effects of transporting and different methods of disposing of C&D waste, the effects of banning landfilling and incinerating C&D waste, and how evolving emissions technology should be applied to permits for incinerating such waste. The law also imposes a moratorium until July 1, 2006, on the incineration of C&D waste. The moratorium does not apply to municipal waste combustors with a design capacity of at least 100 tons per day, or to any municipal incinerator as defined in RSA ch. 149-M, that is permitted by DES and was in operation on January 1, 2005. **E.D. 7/1/05; moratorium 8/30/05.**

**Shoreland Protection Act Study.** Chapter 209 (SB 83) establishes a commission to study the effectiveness of the Comprehensive Shoreland Protection Act. Among the 10 specified duties for the commission are: review buffer and setback standards and recommend standards that are consistent with other applicable laws; make recommendations to revise and/or clarify the nonconforming use, lot, and structure standards; and explore funding options for the program at DES. On the commission is a representative of a waterfront community nominated by NHMA and appointed by the Governor. The commission is to make an interim report by November 1, 2005, with a final report to be filed by November 30, 2006. **E.D. 7/1/05.**

**Building on Lots Without Frontage.** Chapter 226 (SB 188) allows municipalities to except “any lot” from the provisions of RSA 674:41, which generally prohibits building on lots without frontage on a town-maintained road or a road approved by the planning board, with certain exceptions. To except lots from the statute’s prohibition, the town must follow the procedures of RSA ch. 675 governing zoning amendments. **E.D. 9/3/05.**

**LCHIP Loans.** Chapter 234 (HB 539) allows financial assistance to eligible LCHIP applicants to be made in the form of loans, as well as grants. Up to 50% of the financial assistance provided each year may be made through loans, with the principal and interest payments deposited in the LCHIP trust fund. **E.D. 7/1/05.**

**Water Management Data Collection.** Chapter 240 (HB 215) creates a new statutory chapter, RSA ch. 488, to provide for the uniform statewide collection of water use data in order to understand how state water resources are utilized. The new law will require water users who withdraw, discharge, or transfer large amounts of water to register with DES and to measure and report the amount of water withdrawn, discharged, or transferred. **E.D. most sections 1/1/06.**

**Leaf and Yard Waste Exemption; Commission to Study Resource Recovery Facility for Sullivan County.** Chapter 265 (HB 293) exempts the Concord Regional Solid Waste/Resource Recovery Cooperative and its members from the prohibition in RSA 149-M:27, III on disposal of leaf or yard waste at any solid waste landfill or incinerator. The exemption expires on June 30, 2009. It further provides that a solid waste facility will not be deemed to violate the prohibition on leaf or yard waste if, at a minimum, it (1) posts signs at the facility providing notice of the prohibition, (2) provides written notice to, or agreements with, the facility’s customers giving notice of the prohibition, or (3) periodically monitors incoming waste to detect leaf and yard waste and notifies customers that they have violated the prohibition.

Chapter 265 also establishes a commission to study the feasibility of developing a “materials resource and recovery” facility in Sullivan County. The commission will explore funding options for the con-

struction and operation of such a facility and the feasibility of a county-wide landfill. The commission will include, among others, a representative from each municipality in Sullivan County, appointed by the municipality's governing body. The commission is to report its findings and any recommendations for proposed legislation to the legislature, the governor, and all municipalities in the county by September 1, 2006. **E.D. 7/22/05.**

**Committee to Study Solid Waste Management Districts and Interstate Waste Compacts. Chapter 271 (HB 580)** creates a legislative committee to study the procedures for forming and dissolving solid waste management districts under RSA ch. 53-B; the benefits of the formation of a solid waste management district by a single town; the effect of the withdrawal of a majority of a district's members on the continuing environmental liabilities of the remaining members; the procedures for admission and withdrawal of members; and the procedures for dissolution of an interstate solid waste compact under RSA ch. 53-D. The committee must file its report by November 1, 2005. **E.D. 7/22/05.**

**Groundwater Withdrawals Commission Reporting Date Extended. Chapter 287 (SB 142)** extends the final reporting date for the Commission to Study Issues Relative to Groundwater Withdrawals to November 30, 2008, and requires an interim report to be filed by November 30 each year until then. The chapter also provides that the Senate Environment and Wildlife Committee and the House Resources, Recreation, and Development Committee shall have oversight responsibility for the progress of the commission. **E.D. 7/22/05.**

## **V. PUBLIC SAFETY; POLICE; FIRE; BUILDING/HEALTH INSPECTION**

**Police Chief Dismissal Procedures. Chapter 24 (HB 266)** amends the statute relative to the dismissal or suspension of a police chief by increasing from 10 days to 45 days the period for the chief to appeal the action by filing a petition with the superior court. **E.D. 1/6/06.**

**Earlier Return of Found Property Permitted. Chapter 48 (HB 86)** allows a police department to return lost or abandoned property worth less than \$250 to the finder after it has been held by the police department for 90 days. Property worth \$250 or more must be held for at least 180 days. Under previous law, all such property, regardless of value, had to be held for at least 180 days. The new law provides that the police department's good-faith judgment of the value of the property is determinative for purposes of the holding period. **E.D. 7/22/05.**

**State Building Code Changes. Chapter 75 (SB 65)** is the legislature's ratification of the changes made by the State Building Code Review Board to the state building code in 2003 and 2004. The changes were made as part of the administrative rulemaking process, but statute requires that they be approved by the legislature within two years of their adoption to remain in effect. Please consult the chapter to review the text of the specific code updates. **E.D. 5/31/05.**

**Authority to Close an Area. Chapter 192 (HB 628)** authorizes law enforcement officers to close an area for the purpose of abating a threat to public health or safety created by flood, storm, fire, earthquake, explosion, riot, ongoing criminal activity that poses a risk of bodily injury, or other disaster. Law enforcement officers may order unauthorized persons not to enter or to leave such a closed area. **E.D. 6/30/05.**

**Snowmobiles and ATVs Separated.** Chapter 210 (SB 226) creates a new statutory chapter, RSA ch. 215-C, for the purpose of creating a separate statute for the regulation of snowmobiles only. The new RSA ch. 215-C does not change any of the current regulations or statutes governing snowmobiles or OHRVs, nor does it change the current authority or responsibility of DRED or Fish and Game—it simply leaves the provisions regulating all OHRVs other than snowmobiles in RSA ch. 215-A and restates all the rules applying to snowmobiles in RSA ch. 215-C. **E.D. 7/1/06.**

**Police Given More Control Over Noise Violations.** Chapter 260 (HB 68) provides that a law enforcement officer is deemed to be “a person of average sensibilities” for purposes of determining whether noise emanating from a vehicle’s sound system constitutes a breach of the peace under the disorderly conduct statute. Under the existing statute, making loud or unreasonable noise constitutes disorderly conduct if the noise would disturb a person of average sensibilities. New Hampshire courts have held that the “person of average sensibilities” who initiates the complaint must be someone other than a police officer, which has made it virtually impossible for police to enforce the law. Chapter 260 will allow a police officer to stop a vehicle with a blaring sound system without waiting for a private citizen to make a complaint. **E.D. 7/22/05.**

## **VI. PUBLIC WORKS; ROADS AND HIGHWAYS; SPEED LIMITS; AIRPORTS; RAILS**

**Public Works Employees Motor Vehicle Liability.** Chapter 46 (SB 138) adds municipal public works and highway department employees operating a vehicle owned by the municipality to the listing of those exempt under RSA 264:33 from personal liability for on-the-job accidents. **E.D. 1/1/06.**

**NHMA POLICY.**

**Pocket Bikes Prohibited on Public Ways.** Chapter 108 (HB 286) prohibits the operation of “pocket bikes” on any public way and prohibits the issuance of a vehicle registration or certificate of title for a pocket bike. A pocket bike is defined as a “2- or 3-wheeled motorized device that has handlebars, is designed to be sat upon by the operator, is smaller in size than a conventional moped, motorcycle, or motor-driven cycle, and is powered by a gasoline or alcohol fueled motor with a piston displacement of less than 100 cubic centimeters.” **E.D. 1/1/06.**

**Renaming of Private Roads.** Chapter 113 (HB 467) authorizes a municipality’s governing body to change the name of a private road “when the name change is necessary to conform to the requirements of the enhanced 911 telecommunications system.” Previously, the governing body could change the names of public roads, but had no such authority over private roads. **E.D. 8/14/05.**

**Committee to Study Procurement Methods.** Chapter 132 (HB 157) creates a legislative committee to “study contracting practices for public works projects by state agencies, municipalities, counties, school districts, and all other political subdivisions.” The goal of the study is “to recommend the public procurement policies that promote the best economic and work quality value from public construction and infrastructure investment.” This is the progeny of a bill sent to interim study in the 2004 session that would have prevented the state and municipalities from restricting bidders and contractors based on union affiliation, provision of benefits, or certain other practices. **E.D. 6/16/05.**

## **VII. TAXES; ASSESSMENTS AND COLLECTIONS; EXEMPTIONS; CURRENT USE**

**Reverse Mortgage Study.** Chapter 63 (HB 512) expands the Committee to Study Property Tax Relief, established in 2004, to include the study of reverse mortgage programs as a means of assisting taxpayers in paying their property tax bills. **E.D. 5/23/05.**

**State Property Tax Changes.** Chapter 96 (SB 202) amends RSA 76:8, I(a) to clarify legislative changes made last year affecting property taxable as utility property. It allows the Commissioner of DRA to adjust total equalized value when a municipality's total equalized value for the preceding year includes the value of property not taxable under RSA 76:3 in the current tax year, and without such adjustment, the municipality's portion of the state property tax would exceed 105% of the amount of the state property tax due in the current tax year.

The changes from last year were designed to assist those municipalities that have utility properties that one year are included in the local base, but when fully operational the next year are taken out of the local base for state property tax purposes. However, Penacook, a section of the City of Concord, has a utility located within its boundaries and was not properly included in last year's legislation. Chapter 96 remedies that inadvertent error. **E.D. 4/1/05.**

**Five-Year Valuation Schedule.** Chapter 119 (HB 710) revises the timing of the RSA 75:8-a requirement that the selectmen or assessors value all property at full market value at least every 5 years. Under the new law, the five-year period is counted either from the first year a municipality's assessments were reviewed and determined by DRA to be at market value or from the first year after 1999 that the municipality conducted a DRA-monitored full revaluation. **E.D. 6/15/05.**

**Expanded Eligibility for Veterans' Credit.** Chapter 126 (SB 192) adds the "Persian Gulf War" to the RSA 72:28 list of qualifying wars or armed conflicts in which a veteran must have served in order to be eligible for the veterans' property tax credit. The Persian Gulf War period began August 2, 1990 and continues until "the date thereafter prescribed by Presidential proclamation or by law." Those eligible for the credit must still meet the provisions of RSA 72:28, IV, which requires service of not less than 90 days and an honorable discharge or termination due to service-connected disability. The surviving spouses of such veterans and the surviving spouses of veterans who suffered service-connected deaths are also eligible. The chapter removes the Spanish War, Philippine Insurrection, and Boxer Rebellion, as there are no longer any living veterans from those wars. The addition of the Persian Gulf War period is expected to make between 5,000 and 10,000 veterans newly eligible for the credit. As many municipalities have recently increased the amount of their veterans' credit up to \$500 as a result of legislation passed last year, the effective date of the chapter was extended until April 1, 2006 to give municipalities an opportunity to evaluate the credit level in light of the expanded eligibility provisions and to make any adjustments they might feel necessary. **E.D. 4/1/06.**

**Tax Lien Report to Identify Property Owner, Not Taxpayer.** Chapter 140 (HB 394) changes the information to be included in the report of lien that a tax collector files with the register of deeds under RSA 80:64 after executing a tax lien to the municipality. Under the old law, the report was to include "the name of the person to whom the real estate was taxed." The new law requires the report to name the current owner of the property, if known. Otherwise, it should identify "the person against whom the tax was assessed." **E.D. 8/16/05.**

**Property Tax Exemption for Telephone Poles and Conduits.** Chapter 146 (SB 11) extends the local property tax exemption for wooden poles and conduits owned by telephone companies to July 1, 2010. **E.D. 7/1/05. NHMA POLICY TO OPPOSE.**

**Non-attorneys and Utility Appeals.** Chapter 171 (HB 429) amends the BTLA statute relative to representation before the board by non-attorneys to allow non-attorneys to represent utilities in appeals of the state utility property tax levied under RSA ch. 83-F. It also clarifies the requirements for certain condemnation proceedings conducted by the BTLA. **E.D. 1/1/06.**

## **VIII. WELFARE; EDUCATION; LIBRARIES; HUMAN SERVICES; HOUSING**

**Medicaid Reimbursement Rates for Pharmacy Providers Study.** Chapter 73 (HB 697) establishes a committee to study Medicaid reimbursement rates for pharmacy providers and to make recommendations relative to the appropriate methodology to be used to determine such reimbursement rates. The work of this committee may be of interest to local welfare officials, as pharmacies are required by statute to bill the Medicaid rate for prescriptions paid for by local welfare programs. The committee is to report by November 1, 2005. **E.D. 5/31/05.**

**Withdrawal from Cooperative School District.** Chapter 110 (HB 346) amends RSA 198:25 to extend to 180 days the period for a study committee of a cooperative school district to report to the State Board of Education its findings regarding the possible withdrawal of one or more member districts from the cooperative district. It also provides that if the study was requested by one of the member districts and the committee determines that withdrawal is not feasible, the district requesting the study may submit a minority report including a withdrawal plan. A withdrawal plan submitted by minority report may be approved by the state board and then submitted to the voters of the cooperative district, just as if it had been proposed by the full committee. **E.D. 6/15/05.**

**Definition of Recreation Program.** Chapter 156 (HB 472) again reaffirms that municipal recreation programs are exempt from state day care licensing. To date, every study conducted about the need for such licensing, including the most recent one during the summer and fall of last year, has concluded that recreation programs are not day care programs and should not require state licensing. **E.D. 8/20/05.**

## **IX. UTILITIES**

**Property Tax Exemption for Telephone Poles and Conduits.** Chapter 146 (SB 11) extends the local property tax exemption for wooden poles and conduits owned by telephone companies to July 1, 2010. **E.D. 7/1/05. NHMA POLICY TO OPPOSE.**



**Regulatory Practices of Telecommunications Industry Study.** Chapter 263 (HB 194) establishes committee of three senators and three representatives to study regulatory practices pertaining to the telecommunications industry, including the importance of basic telephone services offered by land line telephone companies to those not served by unregulated telecommunication industries; the cost of these services to their users and to the regulated telephone companies; innovative regulatory approaches which lessen business restrictions in return for price stability; and the impact of competition and the potential for alternatives other than the typical rate of return regulation that will provide incentives for infrastructure investment and the offering of new and innovative services while preserving universal access to affordable basic telephone services. The committee shall file its report by November 1, 2005. Chapter 263 also establishes procedures for the alternative regulation of small incumbent local exchange carriers by the public utilities commission. **E.D. 7/22/05.**

## **X. EDUCATION FUNDING**

**School Building Aid.** Chapter 37 (HB 71) appropriates \$2,730,411 to the Department of Education to fully fund all building aid projects that were approved for FY '05. **E.D. 5/17/05.**

**State Property Tax Changes.** Chapter 96 (SB 202) amends RSA 76:8, I(a) to clarify legislative changes made last year affecting property taxable as utility property. It allows the Commissioner of DRA to adjust total equalized value when a municipality's total equalized value for the preceding year includes the value of property not taxable under RSA 76:3 in the current tax year, and without such adjustment, the municipality's portion of the state property tax would exceed 105% of the amount of the state property tax due in the current tax year.

The changes from last year were designed to assist those municipalities that have utility properties that one year are included in the local base, but when fully operational the next year are taken out of the local base for state property tax purposes. However, Penacook, a section of the City of Concord, has a utility located within its boundaries and was not properly included in last year's legislation. Chapter 96 remedies that inadvertent error. **E.D. 4/1/05.**

**Kindergarten Construction Aid.** Chapter 164 (SB 90) extends to June 30, 2006, the program that assists school districts in establishing a public kindergarten program and appropriates an additional \$1,000,000 to the Department of Education for that purpose. **E.D. 7/1/05.**

**Semi-Annual Payments of Building Aid Grants.** Chapter 180 (HB 248) provides that annual building aid grants to school districts under RSA ch. 198 shall be made in two approximately equal payments, one in October and one in April of each fiscal year. It also adds the purchase or lease-purchase of equipment designed to improve school building energy efficiency or indoor air quality to the definition of "construction" for the purpose of calculating building aid grants. **E.D. 8/29/05.**

**State Education Funding Changes.** Chapter 257 (HB 616) substantially changes the formula for state aid to education. The new law sets the statewide property tax at a level sufficient to raise \$363 million for education, which is \$2.84 per thousand for the 2006 fiscal year. The tax is assessed by each municipality for the use of the school district(s). Beyond that, municipalities are eligible for three forms of state aid. First, if a municipality's equalized valuation per pupil is less than the statewide average, it receives "local capacity tax aid" in an amount equal to the difference between (a) what the municipality can raise if the "state tax capacity rate" is applied to the municipality's equalized valuation and (b) what the municipality could raise using the same rate if its equalized valuation per pupil were equal to the

statewide average. The “state tax capacity rate” is the “total revenue raised statewide by the local education tax assessment” (currently \$825.5 million) multiplied by 1,000 and divided by the total statewide equalized valuation. Currently, that rate is \$7.19.

Second, if both the municipality’s equalized valuation per pupil and its median family income are less than or equal to 150% of the state averages, it receives “targeted per pupil aid” for special education students, students eligible for free and reduced-price meals, limited English proficient students, and transportation costs.

Third, if the municipality’s equalized valuation per pupil is less than the state average, it receives “statewide education tax capacity aid” equal to the additional amount it could raise at the statewide property tax rate (\$2.84) if its equalized valuation per pupil were equal to the state average.

There is a four-year transition provision in the new law. Municipalities that receive less funding under the new formula in fiscal year 2006 than they received in 2005 under the old law are guaranteed 85% of their 2005 funding. They will receive the same amount in fiscal year 2007. In fiscal years 2008 and 2009, they are guaranteed 85% of their total aid in 2006 and 2007. All transition grants end after 2009. **E.D. 7/1/05; repeal of transition provisions 7/1/09.**

## **XI. SPECIAL ACTS**

**Haverhill Library Funds. Chapter 15 (HB 53)** repeals a 1901 law relating to the apportionment of library funds in the town of Haverhill. **E.D. 5/10/05.**

**Manchester Retirement System. Chapter 40 (HB 499)** further defines employee for the purpose of participation in the City of Manchester’s contributory retirement system; amends language related to retirement benefit calculations, optional retirement benefits and disability benefits; and provides for purchase of prior service credit by employees. **E.D. 7/16/05.**

**Medical Insurance for Manchester Retirement System Members. Chapter 41 (HB 521)** provides that, if by referendum vote the city approves it, a subtrust will be established in the Manchester Retirement System to assist in the payment of group health insurance premiums for members. **E.D. for referendum 5/17/05. Referendum to be held 9/05 or 11/05.**

**Swap Agreements Authorized for Manchester and Nashua. Chapter 91 (SB 189)** authorizes the cities of Manchester and Nashua to enter into rate swap agreements and similar agreements “for the purpose of managing an interest rate, currency, commodity price, investment, or similar risk that arises in connection with . . . the issuance, carrying, or securing of obligations, or the acquisition or carrying of investments.” Such an agreement must be authorized by a vote of at least two-thirds of all members of the city’s legislative body and approved by the mayor. If so authorized by the legislative body, the city’s obligation to make payments under the terms of such an agreement may be deemed a general obligation of the city for which its full faith and credit may be pledged. The law also provides that either city may authorize and issue general obligation bonds for any purpose for which it may raise money; provides that the requirements of RSA 33:11 regarding the authentication of bonds shall not apply to Manchester or Nashua; and gives the cities broad discretion in determining how to apply any premium received upon the sale of bonds or notes. **E.D. 8/6/05.**

**Greater Derry-Salem Cooperative Alliance for Regional Transportation. Chapter 116 (HB 568)** establishes the Greater Derry-Salem Cooperative Alliance for Regional Transportation (CART), a public body corporate and politic, for the purpose of operating a regional public transportation system. Municipal participation is voluntary, although the provision of transit service to any individual municipality will be based on financial participation. **E.D. 8/14/05.**

**Roxbury 2003 Valuation. Ch. 119 (HB 710-FN)** directs DRA to adjust the 2003 total value for the Town of Roxbury to exclude over \$2 million in tax exempt property which was mistakenly reported as taxable. The adjusted total valuation is to be used by DRA in all tax rate calculations. **E.D. 6/15/05.**

**North Conway Water Precinct Capital Reserve Funds. Chapter 150 (HB 411)** authorizes the North Conway Water Precinct to appropriate money for the establishment of capital reserve and expendable trust funds. It also ratifies the actions of the precinct's 2004 annual meeting. **E.D. 6/1/05.**

**Laconia District Court House. Chapter 158 (HB 603)** makes an appropriation to the Department of Administrative Services for the purchase of the Laconia district court building. If at any time after the purchase takes effect, the building is not used for state-related offices, the City of Laconia shall have the right to purchase the building and appurtenant land for the fair market value less the fair market value of the building and land on July 1, 2005. **E.D. 7/1/05.**

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### Where to Obtain Copies of 2005 Laws

**Legislators.** You should be able to contact your Representative or Senator to secure copies of new laws. There should be no charge for these copies if you request a small number.

**The Internet.** Access at [www.state.nh.us](http://www.state.nh.us). (These chapters can be obtained at no charge.)

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**HB 410**, relative to the confidentiality of documents submitted with an application for a property tax credit, exemption, or deferral.

**HB 581**, relative to approval and review of municipal charters.

**HB 653-FN-LOCAL**, relative to bonds for construction, development, improvement, and acquisition of broadband facilities.

**HB 657-FN-LOCAL**, relative to promoting community revitalization.

**HB 695-FN**, requiring the university system of New Hampshire to make payments in lieu of taxes for purchased property.

**SB 104-FN**, relative to the tax exemption for water and air pollution control facilities.

**SB 147-FN-L**, relative to eligibility for local assistance.

**RESOURCES, RECREATION AND DEVELOPMENT**

**SB 140**, relative to the acceptance of in-lieu payments for the restoration or creation of wetlands and the preservation of upland areas adjacent to wetland areas.

**TRANSPORTATION**

*SB 157-FN*, relative to all terrain vehicles used for agricultural purposes.

**WAYS AND MEANS**

*HB 91-FN*, repealing the local property tax exemption for wooden poles and conduits. **NHMA Policy.**

**BILLS RE-REFERRED TO SENATE COMMITTEES****ENERGY AND ECONOMIC DEVELOPMENT**

*HB 582*, relative to the policy for records management.

**ENVIRONMENT AND WILDLIFE**

*SB 103-FN-A-L*, relative to a shorefront maintenance fee.

**EXECUTIVE DEPARTMENTS AND ADMINISTRATION**

*SB 190-L*, relative to workforce housing opportunities.

**INTERNAL AFFAIRS**

*HB 365*, relative to recount fees.

*SB 26*, requiring identification to obtain a ballot.

**PUBLIC AND MUNICIPAL AFFAIRS**

*HB 505*, relative to recording mailing addresses on property deeds. **NHMA Policy.**

**TRANSPORTATION AND INTERSTATE COOPERATION**

*SB 95-L*, relative to noise from motor vehicles.



## **Eminent Domain Under Fire and Study**

As a result of the US Supreme Court's decision in the *Kelo v. New London* case, eminent domain is a hot topic in New Hampshire and across the country. In New Hampshire, a Senate President's Task Force on Eminent Domain has been established. It had its first meeting on August 2<sup>nd</sup>, and will meet again on Tuesday, August 16<sup>th</sup> and Wednesday, August 31<sup>st</sup>, both at 10:00 a.m. in LOB Room 101.

We have also heard that the House has established a committee on eminent domain as well, although details are not yet available. You will be able to find more information about the House efforts by watching the House calendar on line at <http://www.gencourt.state.nh.us/hcaljournals/>.

The *Kelo* decision upheld the right of states and municipalities to take private property for a privately owned redevelopment project that is shown to have a public benefit, even if the private property is not "blighted." In New Hampshire, municipalities have only that eminent domain power granted to them by the state, and that power is already more limited by statute and by case law than in the *Kelo* case. New Hampshire Public Radio's *Exchange* program had an interesting and educational discussion about eminent domain, which can be heard in its entirety at [http://www.nhpr.org/view\\_content/9288/](http://www.nhpr.org/view_content/9288/). Nevertheless, the power of eminent domain can be an important tool for municipalities, albeit in restricted circumstances. We urge you to follow the work of the Task Force and to contact us and your legislators with your thoughts and concerns.

## **Retained Bills To Be Reviewed in the Fall**

The Speaker of the House announced that no work was to be done on retained bills in July or August—and for that we are most grateful! But September is soon upon us, and that is when work will resumed on all bills retained by the House (and likely the Senate, too). If you are interested in what happens to a retained bill, watch the House and Senate calendars, which will resume weekly publication in September, or contact the Government Affairs office at [governmentaffairs@nhlgc.org](mailto:governmentaffairs@nhlgc.org).

## **Government Affairs After the Reorganization**

Since the 2003 reorganization of the Local Government Center, municipal advocacy and government affairs have continued to be a primary focus of the New Hampshire Municipal Association. Under the recently adopted NHMA Operating Agreement, these functions are governed by the Municipal Advocacy Committee (MAC), which comprises 31 municipal officials—the 12 municipal officials who serve on LGC's board of directors plus 19 at-large members.

Under the Operating Agreement, MAC is responsible for the general oversight of NHMA's government affairs function, the formulation and adoption of legislative policy positions as necessary between Legislative Policy Conferences, the adoption of NHMA's annual budget, and the creation of any necessary committees or task forces that may be necessary to carry out NHMA's purposes. MAC will work closely with the newly created Government Affairs Committee (GAC—see separate article) on the legislative policy process, reviewing policy proposals developed by the GAC for presentation to the biennial Legislative Policy Conference, and providing regular legislative updates to the GAC. During the legislative session, MAC meets monthly to receive updates from the Government Affairs staff and provide guidance on legislative issues as they arise.

Together with the Government Affairs staff, MAC is on the front lines in carrying out the municipal advocacy services that have been at the core of NHMA's existence for over 60 years—working, among other things, to preserve revenue sharing, prevent unfunded mandates, protect local authority, and enhance the efficiency and effectiveness of local government. Membership on MAC thus offers an opportunity to play an important leadership role in improving the operation of local governments throughout the state.

Because of the recent increase in the size of the committee, we are looking for new members. Any municipal official is eligible. Terms are three years, although some members will serve initial terms of one or two years so that all can eventually serve staggered three-year terms. If you are interested, or would like to recommend someone, please contact the Government Affairs Department at 1-800-852-3358, ext. 384, or [governmentaffairs@nhlgc.org](mailto:governmentaffairs@nhlgc.org).

## NHMA Government Affairs Committee Established

The Government Affairs Committee (GAC) is a newly established committee of municipal officials which will work in tandem with the Municipal Advocacy Committee (MAC) to initiate and guide NHMA's legislative policy development and advocacy efforts. It is through NHMA's advocacy activities that cities and towns have a voice in the legislature a) to propose changes to clarify statutes or to remedy problems with existing statutory language, b) to keep laws up to date with changing technologies and municipal responsibilities, and c) to respond to legislation submitted by others which affects municipal operations.

The GAC will assume the important duties of the past legislative policy committees in the development of biennial legislative policy. GAC members will suggest legislative policy proposals, review proposals submitted by other municipal officials, study municipal issues, and formulate policy recommendations for action by all NHMA members at the biennial Legislative Policy Conference where each member city and town has a vote. GAC members will also meet to receive legislative updates and to address, with MAC, any adjustments to NHMA's legislative policy agenda. GAC members will be directly involved with legislative advocacy activities, including testifying before legislative committees, making calls and writing letters to legislators, and working to keep abreast of legislative proceedings.

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**We are looking for local officials** who want to be active in the political process (all NHMA policies and actions are **non-partisan**). Do you have ideas on how municipal operations could run more smoothly, efficiently, effectively? Membership on the Government Affairs Committee will be determined by election at the NHMA membership meeting to be held in conjunction with the LGC Annual Conference in November. The MAC Nominating Committee will be meeting on September 14<sup>th</sup> to review the names of those interested and to establish a slate of candidates for the November membership meeting election. If you are interested, or know of someone who you think would be a valuable addition to the GAC, please contact the Government Affairs Department ASAP—time is of the essence!—at [governmentaffairs@nhlgc.org](mailto:governmentaffairs@nhlgc.org). Please contact us as well at that address or 1-800-852-3358 ext. 384 if you have any questions.